

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ALEX ADAMS, #1181239

§

VS.

§

CIVIL ACTION NO. 6:20cv11

ASHLEE CANTWELL, ET AL.

§

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Alex Adams, a prisoner currently confined at Coffield Unit within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. The case was referred to United States Magistrate Judge, the Honorable K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On May 14, 2020, Judge Mitchell issued a Report (Docket No. 14) recommending that all claims against Defendants Whitfield, Embra, Henry, and Davis should be dismissed—with prejudice—for the failure to state a claim upon which relief can be granted. Judge Mitchell also recommended that Plaintiff's challenges to his prison disciplinary proceeding should be dismissed with prejudice until the *Heck* conditions are met. *See Heck v. Humphrey*, 512 U.S. 477 (1994). However, Judge Mitchell recommended that Plaintiff's claim of alleged excessive force against Defendant Cantwell should proceed. Plaintiff has timely filed objections (Docket No. 19).

Plaintiff has filed multiple motions for summary judgment (Docket Nos. 8, 9, 10, 12, and 13). However, Plaintiff has failed to offer summary judgment evidence showing that there are no disputed issues of fact or that he is entitled to judgment as a matter of law. *See Burleson v. TDCJ*, 393 F.3d 577, 589 (5th Cir. 2004). As a result, those motions are denied.

The Court reviews objected-to portions of the Magistrate Judge's Report and Recommendation de novo. *See* Fed. R. Civ. P. 72 and 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed finding and recommendation to which objection is made."). The Court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, having reviewed Plaintiff's objections de novo, the Court concludes that the objections are without merit and that the findings and conclusions of the Magistrate Judge are correct. Accordingly, it is


ORDERED that Plaintiff's objections are **OVERRULED** and that the Magistrate Judge's Report (Docket No. 14) is **ADOPTED** as the opinion of the Court. Furthermore, it is

ORDERED that Plaintiff's claims against Defendants Whitfield, Embra, Henry, and Davis are **DISMISSED** with prejudice for the failure to state a claim upon which relief can be granted. Plaintiff's claims against Defendant Cantwell shall proceed before the Court. It is also

ORDERED that Plaintiff's challenges to his prison disciplinary hearing are **DISMISSED** with prejudice until the *Heck* conditions are met. Moreover, it is

ORDERED that Plaintiff's various motions for summary judgment (Docket Nos. 8, 9, 10, 12, and 13) are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **18th** day of **June, 2020**.


 JEREMY D. KERNODLE
 UNITED STATES DISTRICT JUDGE